

**UNITED STATES DISTRICT COURT**

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

for the District of

2020 SEP -9 AM 10:20

**The Federal District for the State of New Mexico**

CLERK-ALBUQUERQUE lmn

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20 cv 919 KG/SMV CASE NO:

(To be filled out by the Clerk's Office)

Shawn J. Bellistri, SSN xxx-xx 3067  
1405 32<sup>nd</sup> Circle SE, 87124  
Rio Rancho, New Mexico  
**PLAINTIFF**

\*  
\*  
\*  
\*  
\*

SOCIAL SECURITY  
ADMINISTRATION  
APPEALS COUNCIL BRANCH 26  
5107 Leesburg, Pike  
Falls Church, Virginia

**DEFENDANT**

\*  
\*  
\*

**COMPLAINT AND REQUEST FOR IMMEDIATE INJUNCTIVE RELIEF**

**Parties to This Complaint for Immediate Injunction**

**Plaintiff**

Name: Shawn J. Bellistri

Address: 1405 32<sup>nd</sup> Circle, SE

City and County: Rio Rancho, Sandoval

State and Zip Code: New Mexico, 87124

Telephone Number(s): (505) 503-9515 mobile / (505) 369-3128 landline

### **Defendant**

Name: The Social Security Administration Appeals Council, Att: branch no. 26

Address: 5107 Leesburg Pike

City and County: Falls Church, Fairfax

State and Zip Code: Virginia, 22041-3255

Telephone Number(s): (877) 670-2722 / (410) 597-0198 fax

### **Basis for Jurisdiction**

The Basis for Jurisdiction is FEDERAL QUESTION.

Jurisdiction is proper Under 28 U.S.C. § 1331, FEDERAL QUESTION a case (urgent injunction) arising out of federal law. This is not an action for judicial review, and therefore not under Title II or Title XVI of the Social Security Act, but pertains to social security income under Title XVI of the Social Security Act, and per 42 § U.S.C. 1383(c)(3) should be coded by Clerk's Office under:

**COA:42:1383**

**NOS: 863/864**

### **Statement of Claim**

The only issue in this Complaint and Request for Immediate Injunction is the Social Security Administration has failed to provide Plaintiff with a viable copy of Plaintiff's Entire Record, as Plaintiff is legally entitled to. The Albuquerque, N.M., Office of Hearings Operations (OHO) has upon several failed attempts by both e-mail and compact disc to provide Plaintiff with Entire Record, dating back as early as July of 2020. Currently, the Appeals Council is awaiting Plaintiff's response and additional information; and instructed Plaintiff to acquire Entire Record from the OHO.

The Appeals Council has only given Plaintiff until September 11, 2020 to submit Plaintiff's response and additional information for consideration.

Without the Entire Record, Plaintiff cannot effectively review the Administrative Law Judge's findings, nor the evidences used. Within Plaintiff's mother's files, Plaintiff has found material issues of evidence including factual and legal discrepancies that must be compared to documents in the Entire Record and reported to the SSA for potential tampering.

The Appeals Council has been informed by fax and phone of the issue(s), but is too busy to respond, notwithstanding several calls and fax transmissions. Agents from the OHO are working from home, and the Director of the OHO burned a compact disc and it was just received by mail, but the file is corrupted and a number of Geek Squad Technicians have tried the veracity of the CD and e-mails sent from OHO, and concluded the problem is from the source, the OHO. Plaintiff has tried more than one computer also. Plaintiff did receive one working CD from OHO—the Audio file from hearings.

Fundamental is Plaintiff's legal right to Entire Record, and requirement to report potential evidence tampering as suspected.

### **Relief**

Plaintiff respectfully pleas the Court to Order the Appeals Council, and or the SSA to provide Plaintiff with a viable copy of the Entire Record that Plaintiff is entitled to, and also begs the Court to issue an

Injunctive Order to provide Plaintiff a reasonable amount of additional time to review the Entire Record, once Defendant provides it.

Plaintiff has exhausted every other option, and thus begs the Court to issue an injunction compelling the SSA to provide Plaintiff with the Entire Record, and a reasonable amount of time to review it upon receipt.

#### **Attachments**

Enclosed are documents from Geek Squad showing the e-mail files and CD are corrupted, a time-stamped envelope from the OHO showing Plaintiff just received a corrupted CD that should have had the Entire Record, the last correspondence from the Appeals Council, and most of the Plaintiff's faxes sent to the Appeals Council asking for help to no avail. These are labeled Enclosures A-G.

#### **Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint and request for immediate injunctive relief: (1) is not being presented for improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; (4) the complaint and request for immediate injunctive relief otherwise complies with the requirements of Rule 11.

#### **For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case—related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 09/09/2020

Signature of Plaintiff: 

Printed Name of Plaintiff: Shawn J. Bellistri

Plaintiff has no attorney.

Shawn J. Bellistri  
1405 32<sup>nd</sup> Circle SE  
Rio Rancho, New Mexico  
87124

Undersigned Shawn J. Bellistri, SSN ending in 3067

SJB//sjb

Enclosure: A

Attachment 1 of 1 pages

**SOCIAL SECURITY ADMINISTRATION**

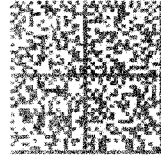
OFFICE OF DISABILITY ADJUDICATION AND REVIEW

555 BROADWAY BLVD NE STE 200

ALBUQUERQUE NM 87102

OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE \$300



US OFFICIAL MAIL  
PENALTY FOR PRIVATE USE \$300  
ZIP 87102 \$000.65  
02 1W  
0004857686 SEP 04 2020

Shawn Bellistri  
1405 32<sup>nd</sup> Circle  
Rio Rancho, 87124

010 1 of 1  
CD of Entire Record  
Completed file

87124\$1911 R027



Enclosure B  
Attachment 1 of 2 pp.

Office of Appellate Operations  
5107 Leesburg Pike  
Falls Church, VA 22041-3255  
Telephone: (877) 670-2722  
Date: August 14, 2020

Shawn Joseph Bellistri  
1405 32nd Circle  
Rio Rancho, NM 87124

Dear Mr. Bellistri:

This is about your request for another extension of time. We have again granted your request for more time before we act on your case.

**You May Send More Information**

You may send us a statement about the facts and the law in this case or additional evidence. We consider additional evidence that you show is new, material, and relates to the period on or before the date of the hearing decision. You must also show there is a reasonable probability that the additional evidence would change the outcome of the decision. You must show good cause for why you missed informing us about or submitting it earlier.

**We Will Not Act For 30 Days**

If you have more information, you must send it to us within 30 days of the date of this letter. We will not allow more time to send information.

Our address and FAX number are:

**ADDRESS:** Appeals Council  
ATTN: Branch 26,  
5107 Leesburg Pike  
Falls Church, VA 22041-3255

**FAX:** (410)597-0198, Attn: Branch 26

*Put your Social Security Number on your request.*

*If you send us anything by fax, please do not send duplicates by mail. That may delay processing your claim.*

**What Happens Next**

If we do not hear from you within 30 days, we will assume that you do not want to send us

See Next Page

Shawn Joseph Bellistri

Enclosure B  
Attachment Page 2 of 2  
2 of Pages

more information. We will then proceed with our action based on the record we have.

**If You Have Any Questions**

If you have any questions, you may call or write the Appeals Council. Our telephone number and address are shown at the top of this letter. If you do call, please have this notice with you.

Dara K. Tunstall  
Branch Chief

Enclosure:  
Self-addressed envelope



Enclosure

Attachment 1 of 2 pages

July 31, 2020

ATTENTION BRANCH NO. 26

Dear Appeals Council:

I received the notice regarding an extension to submit additional evidence. However, there are many reasons I require and request additional time. Please grant additional time for the following important reasons:

1. I have to represent myself; and, being indigent and cognitively challenged, I should be able to use the University of New Mexico's Law Library to do legal research. However, due to "limited operations" in light of COVID-19, I am unable to reach them to even request assistance. Please grant:
  - a. Additional time and;
  - b. If allowable, please provide me access to LexisNexis or Westlaw—perhaps a temporary login so I can do legal research as I review the Administrative Law Judge's opinion and compare it to precedent.
    - i. That is, I am requesting *Reasonable Accommodations* in order to do legal research from home, to maintain social distancing for the safety of others. Again, I am indigent and cannot afford to buy a subscription to these essential legal tools, nor hire an attorney
2. I requested from the Social Security Administration my "entire record", and still have not received it. I will need that, and several hours/weeks to go through it for accuracy to ensure the Council has missing medical data and accurate information to ensure a just decision is rendered. I have been told there are over a thousand pages of medical records just from one medical facility (Lovelace Hospitals). Additional time will be necessary.
3. In my most recent conversations with the SSA, I was told the SSA was using my former address, and that is why I was not getting some notices. However, the SSA does have my current address, and has, for some time. Hence, it is not my fault the SSA sent notices and information to the wrong address causing me to lack records/notices. I did ensure the SSA has the correct address, again. Hence, I will need additional time to review the "entire record" once it arrives.
4. My former attorney (Ms. Baca) and the SSA, have not been able to acquire the *most important medical records* from former psychiatrist: Dr. Edwin B. Hall. Dr. Hall is not in business anymore; but I, or the SSA should still be able to obtain those pertinent records. I have tried, but cannot find any contact number or address to request records. Again, these records are very

Enclosure C

Attachment 2 of 2 pages

important in showing the degrees of my disabilities, and the deleterious consequences I have suffered from having to transfer to a different doctor and facility (because Dr. E.B. Hall is closed).

- a. I informed the SSA of Dr. E.B. Hall in my initial request for SSDI, and I believe the SSA, if anyone, should be able to acquire those essential medical records. Please allow me additional time, and please compel Dr. E.B. Hall to submit records to the SSA.
- b. The same inability to acquire medical records holds true regarding: The Laser Spine Institute, who, upon reviewing my last MRI on my spine, told me I required surgery. They, are also shut down and I need to submit those records to you and am having trouble acquiring them. Please compel them also to submit material records.
  - i. I need your help acquiring these records, they are critical in this case. Please subpoena the medical records from former Dr. Edwin B. Hall (Alb., N.M.) and Laser Spine Institute (Mi., FL).

Thank you for your consideration. If, however, you have already found sufficient information to reverse the ALJ's decision rendering my case "Favorable", please disregard this request. In sum, I respectfully plea the Council to reverse the ruling to "Favorable", and alternatively, allow additional time pursuant to the aforementioned valid reasons, and in light of the fact local, state, and federal institutions are all working at a slower speed due to the COVID19 pandemic.

Most respectfully submitted,

Shawn J. Bellistri

SSN: [REDACTED]-3067

1405 32<sup>nd</sup> Circle, SE,  
Rio Rancho, N.M.,  
87124

(505) 503-9515



SSN [REDACTED] - 3067 Attachment  
ENCLOSURED 1 & 2 Pages

Faxed in on  
8/5/2020

Branch no. 26

Dear Appeals Council: 8/29/20

ence Center

100, Albuquerque, NM 87109

359.3020 - Fax

2 of 2  
8/29/20

Records

at Completely.

alid.

alth, & substance abuse records of:

DOB: 11/29/1980

SSN: [REDACTED] 3067

thy): Shawn Belliste;

2nd Circle, SE

New Mexico, 87124

SIS Fax: N/A

ty Other (specify): Self

tain copies of patient's medical chart

ear) Present

therapy Treatment Summary (\*Therapy Only)

ist Other (specify): Doctor's Notes

Year

From: Stern, Smith  
& others

providers and the above listed individual/health care providers.  
that information regarding active suicidal and homicidal  
privacy and Portability Act (HIPPA). Disclosing such  
sure safety and security. I do not have to sign this authorization  
nation. When my information is used or disclosed pursuant to  
federal HIPPA Privacy Rule. I agree not to hold Sage  
writing (except to the extent that Sage Neuroscience Center has  
ve address. PROHIBITION OF REDISCLOSURE: Federal

regulations (42 CFR Part 2) and State laws (NMSA 1978 2-2-17, 26A-2-2-1, and 26A-2-2-2) prohibit further disclosure of mental health or alcohol and/or drug  
abuse treatment information, and the results of tests for HIV/AIDS and other sexually transmitted diseases to any person or agency without securing another proper  
written authorization for that purpose, or otherwise permitted by Federal regulations or State laws.

Patient Signature

Date

\*\*If patient is a minor (under 14) or incapable of informed consent, sign below\*\*

Parent/Guardian Signature

Relationship

Date

Official Use Only:

Date Processed:

Tracking #:

Initials Done By:

\* Please Expedite ! Thank you.

Enclosure D  
Attachment  
1 of 4 pages

Your desktop is being remote controlled by Agent Joel E.

Agent Stephanie B. We attempt to open the files from the mltrecrm.exe and we were not able to. We as well tried to open the files one by one with passwords but no hyperlink activated.

Agent Stephanie B. no index available

Agent Stephanie B. We tried by email and then we tried by the compact disc and does not work. We are escalating the session to a L2 agent.

Transferring session to another technician.

Remote Control by Agent Stephanie B. stopped.

Support session established with Agent Joel E.

Remote Control started by Agent Joel E.

Agent Joel E. Hello, Carol. Thank you for connecting to Geek Squad Remote Support. My name is Agent Joel and I will be the agent remotely performing the service you have requested today. Please give me a few moments to review the notes from the previous agent and I will be right with you.

Bellistri, Carol: hi

Bellistri, Carol: sorry about the delay in respnding

Bellistri, Carol: Before we get started I need you to help me print the chat session log from the former rep please

Agent Joel E. Okay, Carol.

Agent Joel E. How can I help you with it?

Bellistri, Carol: I need to print this chat session, please help me with that first. It should be in black and white and able to be viewed clearly. I have been trying to use the snipping tool, and the agent b4 u tried to use CTR - PrtScrn and, and it prints out too small.

Bellistri, Carol: can you please put the date and time in this window.

Bellistri, Carol: please put date and time as shown on my pc in this window so I can print out a snipping tool of this chat log that has the accurate date and time

Agent Joel E. Sure, let me check.

Bellistri, Carol: thank you and please confirm that the date is correct, and I am not sure if you are in the US, but if you can just make sure the date time as shown on my computer is accurate. Thank you.

Agent Joel E. Sure, Carol. Today is September 9, 2020, 4:59 PM

Agent Joel E. Let me just add this chat

Bellistri, Carol: Thank you for doing that.

Bellistri, Carol: please standby while I do another snipping tool and print it and will let u know it that part is ok, and then we can work on the files problem. I appreciate your help. By the way my name is Shawn Bellistri, Carol is my mom.

Agent Joel E. Okay, Shawn.

Geek  
Squad  
Page 1 of 4

Enclosure D  
Attachment Page 2 of 4

Agent Stephanie B

Call Agent

Welcome to Geek Squad Remote Support, we will be with you shortly. Note that this session may be monitored or recorded for quality assurance purposes only.

When prompted, click Save. When download is complete, click Open. Let your Agent know if you encounter any problems with the remote control tool.

You've accepted Stephanie's offer.

Type your message here

Your desktop is being remote controlled by Agent Stephanie B

1:11 PM File transfer complete. (Size: 234 bytes, MD5 fingerprint: A4AD62FEBE07C9F1DA82BE0B6B12E6B0)

1:11 PM Script started.

1:12 PM Script has been executed. Output:

Success:

1:12 PM PST Bellistri, Carol: hello

1:12 PM PST Bellistri, Carol: I am done downloading. Please come back onto the line when you can.

1:13 PM Agent Stephanie B: im back

1:25 PM Agent Stephanie B: We attempt to open the files from the MCreERM exe and we were not able to. We as well tried to open the files one by one with passwords but no hyperlink activated.

1:26 PM Agent Stephanie B: no index available

1:27 PM Agent Stephanie B: We tried by email and then we tried by the compact disc.

1:27 PM Agent Stephanie B: and does not work. We are escalating the session to a L2 agent.

Type here and press Enter to send

Type here to search

Geek Squad 2 of 4

Enclosure D  
Attachment 3 p. of 4

10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]

10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]

10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]

10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]

10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]  
10/09/2020 10:00:00 AM [REDACTED]

Deployment of the script 'Deploy System Analyzer' has started.  
Receiving the script file 'WindowsSystemAnalyzerAuto.cmd'.  
File transfer complete. (Size: 234 bytes, MD5 fingerprint: A4AD62FEBE07C9F1DA82BE0B6B12E6B0)  
Script started.  
Script has been executed. Output:

10/09/2020 10:00:00 AM Bellistri, Carol: cas 6538435 fzd0r9

10/09/2020 10:00:00 AM Bellistri, Carol: 248346655

10/09/2020 10:00:00 AM Bellistri, Carol: hey are u there

10/09/2020 10:00:00 AM Bellistri, Carol: phone battery died

10/09/2020 10:00:00 AM Agent Zachary B: yes sir i was filing the escalation i saw the phone had disconnected

10/09/2020 10:00:00 AM Bellistri, Carol: okay great, if you want you can call me back i'll grab a different phone that's charged.

10/09/2020 10:00:00 AM Bellistri, Carol: but u guys have my mom's cell, so it's not the number on file

10/09/2020 10:00:00 AM Agent Zachary B: no problem, The wouldn't be necessary as the esc is being filed and i have your case i'ds for these so if the esc doesn't go through fast enough you do have on record calling us and us filling this so you will get the relevant info for the case

Bellistri, Carol: I appreciate it

10/09/2020 10:00:00 AM Agent Zachary B: no problem im gonna give you the case id again

10/09/2020 10:00:00 AM Agent Zachary B: 248346655 this is the one containing the info on you calling us and having on record an escalation

Bellistri, Carol: okay so that's the one that has two L2 reps on it?

10/09/2020 10:00:00 AM Agent Zachary B: CAS-6538435-F7D0R9 this is you're remoted case in question that has the agent who worked on it initially

Bellistri, Carol: okay

Bellistri, Carol: Do you show that to level 2 technicians worked on it?

10/09/2020 10:00:00 AM Agent Zachary B: yes sir i have them on file for that case

10/09/2020 10:00:00 AM Bellistri, Carol: great! so two level 2 techs worked on it, and couldn't fix yet, correct?

10/09/2020 10:00:00 AM Agent Zachary B: correct we have 2 techs listed as having worked on it the notes do not list a clear resolution and im escalating so you can get the notes to confirm the work being not done

10/09/2020 10:00:00 AM Agent Zachary B: i have escalated your case you should be reached out to in 24-72 business hours but the case notes i put noted you have called and filed with us the esc so we have on record your request

Geek  
Squad 3 of 4

Enclosure D  
Attachment 4 p. of 4

→ Bellistri, Carol: awesome, does what u see show that they tried by email, and also with the CD?  
Agent Zachary B: it shows the cd not the emails but the notes don't seem fully loaded  
Bellistri, Carol: okay can you try to get the ssa file from me downloading the emails again?  
Agent Zachary B: i would have to send you to the next level agent as my level can't touch anything pertaining to data  
Bellistri, Carol: So, you have to transfer me to level 2 tech again?  
Agent Zachary B: yes sir  
Bellistri, Carol: Okay sounds like a plan. and so you said I will get some email about the level two techs not being able to do it by email and cd?  
Bellistri, Carol: after 12am or so?  
→ Agent Zachary B: should be, the email would say the work was not able to be completed by our agents  
Agent Zachary B: what would be the best number for our techs to call u at  
Bellistri, Carol: 505.503.9515  
Bellistri, Carol: but ask for me, Shawn, not Carol, that's my mom.  
Agent Zachary B: ok im getting the offer for etting you sent up over now  
Bellistri, Carol: one other quick question, am I going to get an email of those chat transcripts, and if not, are you able to request them?  
Bellistri, Carol: I put the esc in for the chat transcript our team should reach out requesting a contact to get them to you once they review the esc  
Bellistri, Carol: can you retype that from your end lol  
Agent Zachary B: put the esc in for the chat transcript our team should reach out requesting a contact to get them to you once they review the esc  
Agent Zachary B: like I said on average 25-72 business hours  
Bellistri, Carol: okay thank you for your help.  
Agent Zachary B: but i did on file notate your request for the esc of the chat transcript  
Bellistri, Carol: does that cost money?  
Agent Zachary B: before you hit accept im getting you sent for a redo on your prev session our wait time tonight looks to exceed 3 hours but i notated for our agent sto call when they connect to the device since you have the tts plan this will be a free servic4e  
Agent Zachary B: i also notated due to the nature of this case for them to try to speed you to the agents  
Bellistri, Carol: okay so I can expect them to call in a few hours, while i work on writing the thing for court?  
Bellistri, Carol: another words, they'll call tonight?  
Agent Zachary B: yes sir all you have to do is hit accept  
Bellistri, Carol: thx for being so helpful man. I appreciate you.  
Agent Zachary B: it was pleasure thank you so much for calling g.s make sure to stay safe and healthy out there  
Bellistri, Carol: hey man, b4 u go can u pls help me print this transcript?  
Bellistri, Carol: Zach, can you please type the date in first  
Bellistri, Carol: so sorry man  
→ Agent Zachary B: call date 9/8/2020 ecc agent zachary  
Bellistri, Carol: thx man I can get it into MSword from here and print it  
Bellistri, Carol: but I need to leave this chat window open until they call me in about 3 hrs?  
Agent Zachary B: yes but you can minimize move copy etc the windiow just dont hit the X  
Bellistri, Carol: okay no problem, just make sure they call 505.503.9515 and not my mom in the middle of the night  
Agent Zachary B: yep I got that all logged for you  
Bellistri, Carol: or u guys might have our home number...  
Bellistri, Carol: that u could call too  
Bellistri, Carol: okay thank u  
Agent Zachary B: np

Geek  
Squad

4 of 4



Att: Branch 26

Enclosure E

- Attachment 1 p. of 4

August 29, 2020

Dear Appeals Council:

In Re: Bellistri, Shawn J. SSN: [REDACTED]-3067

PLEA:

I humbly request the Appeals Council in light of all material issues in law and fact raised thus far including those provided herein, override the ALJ's decision, finding my SSDI application hereinafter "Favorable", and my status as "Disabled" consistent with 1614(a)(3)(A) of the Social Security Act as amended.

UPDATE:

I spoke to your office on August 14, 2020 to inquire about status of my appeal. I was told it was pending. I faxed you a request for my "Entire Record" but did not receive a reply about that. I was politely informed by your office I needed to contact the Abq. OHO again to find out why they have not provided me:

1. The "Entire Record"
2. The two separate audio files from the two hearings held before the ALJ.
  - i. First—the hearing held on September 27, 2019 where I was not present and former attorney Ms. Baca chose, at her own volition without my consent, to argue my case; I was not present as I was detained by paramedics and hospitalized against my will for psychiatric issues relating ADHD/ADD/Severe Anxiety/PTSD/Insomnia and what was called hallucinations or delusions
  - ii. Second—the hearing held on March 10, 2020, wherein I was present with former attorney Ms. Baca.

I have since received a CD from a supervisor at the Abq. OHO, named Stephanie (see below) that should contain the two audio files of my two separate hearings. I have not yet tried to use that CD, as I do not own a CD drive but am borrowing a laptop with one. I will let you know if there are any issues.

With all due respect, it is incumbent upon the SSA to provide me with my "Entire Record" and the two hearing files listed above. As such, I do not think it is reasonable, nor fair for me to be penalized by not granting additional time for the shortcomings of the SSA to equip me with that which I have a legal right to—my "Entire Record", working properly and the delay in the audio files.

I have received the latest time extension you granted, landing my deadline on September 11, 2020 due to the 30<sup>th</sup> day falling on a weekend. Given the factual discrepancies outlined herein, I am again requesting additional time, only because OHO and the SSA has failed to provide me to date with my properly working "Entire Record", for which I have legal entitlement to.

In the spirit of cooperation, as long as I am able to obtain and access my "Entire Record" and it is working properly, pursuant to Ms. O'Neill's instructions from the Abq. OHO (see below) and get assistance with legal research, this timeframe should suffice. I truly thank the Council for the extension, and for classifying my case as critical. I am hopeful you have already found reason to deem my case

Enclosure E  
Attachment 2 p. of 4

"Favorable". I have been informed by OHO the Appeals Council gives claimants any benefit of any doubt, and you are actually on my side.

I do respectfully, hereby request yet again, the SSA please provide my digital "Entire Record", working properly as it is supposed to. Meaning, per Kathryn O'Neill, at the local Abq. OHO office, who I spoke to on the 14<sup>th</sup> of August 2020, and who sent me 8 emails that were supposed to have the "Entire Record", and decryption instructions in them, explained to me how the "Entire Record" is to work properly. There is a problem with the files sent and software.

In order for one to have the "Entire Record" work properly, Ms. O'Neill stated, when I called her back on the 27<sup>th</sup> of August 2020, that when a claimant receives a CD with the encryption working properly, it enables the claimant to: click on hotlinks sections, for example, the ALJ's Opinion, Exhibits, or Medical Records, which are underlined in blue like a hyperlink, and the program working properly, then scrolls directly to that specific area of the "Entire Record". I have still not received this, thereby making my research of the emails containing my "Entire Record" almost inexorable to even decipher the schematics of Exhibits.

I request and would really appreciate it if you provide me with the "Entire Record", working properly, as abovementioned, and in the spirit of not burdening the judicial system, this can be resolved at your office's level, and not having to take this to District Court.

I beg the Council to please consider, I know of someone who has SSDI with **only** ADHD, and another individual who receives SSDI just because the ALJ was in training, thereby awarded without being on the merit(s). Whereas, in my case, I have documented: ADHD/ADD, Insomnia, irreversible liver failure/damage, diabetes according to a Lovelace specialist and not per my PCP at Sage Neurosciences, Chronic back pain, Urinary Incontinence, Severe Anxiety Disorder(s), Post-Traumatic Stress Disorder, *inter alia*.

Moreover, the side effects alone, of the large number of medications I require, render me unable to even participate in many short Church activities, let alone work. I tried and was fired in less than 60 days due to my inability to function. (See. Entire Record: last positions held @ Graphics Connection, S & P Data, and PCM).

Reina from Abq. OHO (contact info: 1-866-731-3998 ext.: 11929) on or about July 21, 2020 promised to send me three (3) different compact discs expedited by a postal carrier. That did not happen. Again, on the 14<sup>th</sup> of August 2020, the Appeals Council instructed me to call OHO back and find out why I have not received any of these (3) items. Pursuant to your instructions the following transpired:

I spoke to Kathryn O'Neill, Alb. OHO, receptionist at the abovementioned toll free number, and she emailed me eight (8) separate messages and gave me a password to open these electronic messages that should, according to her, contain my "Entire Record", but **not** the audio files of the hearings held. She also said, in order to obtain the audio files from the two hearings I would need to contact a supervisor named Stephanie at ext. 11975 and she would be able to produce for me the (2) two audio files. Again, Stephanie sent, and I received one CD that should contain the audio files. Hence, all I need is my "Entire Record" working and indexed properly.

Upon speaking to Stephanie, on or around August 14, 2020, she stated Abq. OHO did send out one (1) compact disc "two weeks ago" containing the "Entire Record", but not the two (2) audio files. I have not

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received this "Entire Record" CD as of date. Again, I did receive a CD from Stephanie which should have the audio files for the two hearings. Hence, I just require the "Entire Record".

As an impoverished *pro se* claimant, I again, beg the Council to grant me access to Westlaw or LexisNexis to do research. I am indigent and cannot afford an attorney to pursue this. I was quoted by one attorney thousands of dollars for a retainer to get representation, and then bring this to district court if need be. I again, plea the Council provide access to Westlaw/LexisNexis since the local law school (UNM) is running hybrid classes and doubt they will allow a non-student into the law library. Moreover, it is safer for myself and others if I use Westlaw/LexisNexis at home, maintaining social distancing and following our governor's orders.

#### SECURITY REPORT/OVERSIGHT:

Moreover, it has come to my attention there may be a serious data and security breach with your data systems. I was emailed the "Entire Record" by Katheryn O'Neill, from the Albuquerque, OHO office. The seven (7) emails containing my "Entire Record" showed inaccurate information, and some data tended to literally shuffle around, as though there was a hacker online. I did not bring this up to her but feel I must report it to the SSA. Therefore, it is so reported.

#### UPDATE CONTINUED:

I spoke with Ms. O'Neil on, August 27, 2020 and she stated she would resend the "Entire Record" and the "hotlinks" would work properly so I can easily scroll through all the parts of the "Entire Record" as they are labeled in various exhibits and sections, just as it is supposed to work when any claimant receives a CD of their Entire Record.

Ms. O'Neill did not call back as stated, that day. I then called her back, and she said their technical guy, named "Al Lovato", was going to work on, fix it, and email me Friday, August 28, 2020 my "Entire Record" in digital format so that the hotlinks would enable me to scroll through the thousands of pages and sections with ease and fluidity, working properly as defined. Yet, I received no further communications and the SSA has yet still failed to provide me with my "Entire Record" as of date.

I have, however, still retained the seven (7) emails from Ms. O'Neill that need to be combined into one indexed-record (according to Ms. O'Neill and her communications with the tech guy, Al Lovato), so I can use the hotlinks and view my "Entire Record" properly. Ms. O'Neill let me know the records she sent me are not indexed, and that is the problem. She gave me instructions to try again, and I did to no avail. I think google documents may be able to do this kind of indexing. So, I may attempt to do that with google in hopes of getting through this daunting process.

#### RECAPITULATION:

It is important to note I have been promised a viable copy of my "Entire Record" on several occasions by the SSA and have not received it to date. I have even requested it from the Appeals Council. To review:

Reina from the local OHO office promised to send me out a CD of the "Entire Record", and it never came. Weeks later, a supervisor attorney named Stephanie let me know she would send out the two (2) audio files for my hearings, and a separate CD of the "Entire Record" was in the mail, from when Reina requested it to be sent out. Stephanie also promised me the two (2) audio files of the hearings, and I



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have received a CD that should have the audio hearings on it. I still do not have my "Entire Record" working properly, nor the CD version of it Stephanie assured me was in the mail.

As an alternative, since the SSA has yet to provide my "Entire Record", I requested and received what my former attorney Ms. Baca had on file. It is a PDF that appears to have similar attributes as what Ms. O'Neill sent me. However, it requires no password and there are no hotlinks (or hyperlinks) that enable me to scroll from section to section. From that, I have begun to analyze the ALJ's opinion. However, I may not be able to examine the ALJ's decision in depth for errors in law or fact without accessing: 1) my "Entire Record" properly working; and 2) a way to do legal research such as LexisNexis/Westlaw. I have however begun to find errors in fact and will be sending you that and what legal research I am able to do.

**SUMMATION:**

Finally, I respectfully request the Appeals Council grants additional time until the SSA provides my "Entire Record" working properly, my "Entire Record", and kindly grants temporary access to LexisNexis or Westlaw, if allowable.

**PETITION:**

I graciously and duly request the Appeals Council, in light of all issues raised thus far, overrules the ALJ's opinion, finding my application hereinafter "Favorable", and consistent with 1614(a)(3)(A) of the Social Security Act as amended.

Shawn J. Bellistri, SSN: [REDACTED]-3067  
1405 32<sup>nd</sup> Circle SE  
Rio Rancho, New Mexico  
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(505) 503-9515

SJB/sjb

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August 31, 2020

In Re. Shawn Bellistri, SSN: [REDACTED]-3067

Attention Branch No: 26

Dear Appeals Council:

I am writing to let your office know that as of today, I still have absolutely no way to access my "Entire Record", other than 7 emails that are not linked. As such, I am not even able to decipher the exhibits, nor use the "hotlinks" to scroll through this.

It is my understanding I am entitled to have a compact disc version of my "Entire Record", that is encrypted and will work properly. I still do not have a way to access my "Entire Record". I still have received no new correspondences from OHO—who promised to get me this CD more than a month or so ago.

Please give me access to my "Entire Record", so I can review the ALJ's opinion for accuracy and find any errors in law and in fact.

Thank you,

Shawn Bellistri

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September 3, 2020

Attention Branch No: 26

Dear Appeals Council:

I still do not have access to my "Entire Record", even though I have requested it from the Albuquerque OHO at least four times since July 2020. I sent you a fax about this in detail on August 29, 2020.

On Tuesday, September 1, 2020 I called the Albuquerque OHO Office again, to try to get a copy of my "Entire Record". I spoke with Ms. Kathryn O'Neill again, the main receptionist woman who explained to me that she, although they ( her and the technical guy—Al Lovato) never replied to me regarding getting another email copy of the "Entire Record", indexed properly, with hotlinks or thumbnails, that enables me to scroll through the over 2700 pages that comprise my "Entire Record" properly because it would be indexed. On the same day, she let me know Al Lovato never replied to her, and so she just emailed me 7 emails *again*, giving me the same instructions, and of course, the "Entire Record" did not index pursuant to her instructions, again. So, again, I received 7 emails with attachments that each had a file attached, and required a password. I was told to download them to my hard drive, one by one, until they all downloaded to a new folder the HDD on my computer, then, from there, to open them sequentially one at a time, from messages 1 through 7. She said upon doing this, they would index properly and suffice to create one encrypted document. I did all this again, as she instructed before. It did not work. I also tried it on a flash drive to make sure my computer wasn't the issue. So, on September 1, 2020 the Abq. OHO emailed and failed to provide me again with my "Entire Record". But Ms. O'Neill tried her best.

I recorded the phone call with her just to be sure I have record of this. I also tried, as stated to the Appeals Council on the 29<sup>th</sup> of August, via fax, to attempt to do this with google drive on my own. That did not work either.

So, on August 14, 2020 and September 1, 2020 we tried to get the "Entire Record" via email and failed.

Also, as mentioned in my last fax to your office, an attorney supervisor named Stephanie at extension 11975 stated Abq. OHO had mailed out the CD "Entire Record" "two weeks ago", and it still has not arrived. I do not think it is going to arrive, as she sent me a different CD with the two audio recordings on it, and that arrived in the mail as stated.

Today, September 3, 2020 I called Abq. OHO again, I left Stephanie an urgent message, and have not heard back. However, I happened to glean another supervisor's name and ext. number. Her name is Nadine Clarke, at ext. 11948, whom I left her a message on August 14, 2020 about this issue. She did not return the call. However, I reached her today, I explained, and she said to "stand down" for today. That she was going to have some technician try again to get the "Entire Record" emailed to me again. And, to wait for her to get back to me tomorrow. She stated, upon me pressing the issue, to "stand down" again, but was polite and said worst case scenario, she would have to get someone to go to the Abq. OHO and burn the physical CD for me, and then they would mail it to me. I apprised her of the last received deadline from your office. So, I will try her again tomorrow.

Please provide me (and Abq. OHO) with additional time, web access to my "Entire Record", and/or my "Entire Record". Thank you.

Shawn Bellistri, SSN [REDACTED] 3067